

Legislative Review of the Dependent Adults Act and the Personal Directives Act

***"To meet the needs of adult Albertans
now and into the future"***

Discussion Guide and Survey Questions



To obtain more copies of this Discussion Guide and Survey Questions:

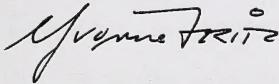
- Phone the Office of the Public Guardian at (780) 422-1868 **OR** the Office of the Public Trustee at (780) 427-2744. To be connected toll-free in Alberta, dial 310-0000 followed by the area code and phone number,
- E-mail your request to BrendaLeeDoyle.LegReview@gov.ab.ca,
- Visit your MLA's Constituency Office.

It is difficult to imagine a time when you may not be able to make your own decisions. Unfortunately, some Albertans find that this becomes a reality far too soon. Many Albertans value their ability to take responsibility for their future. We want you to have the information and support you need to ensure your personal and financial wishes are carried out if you were ever to need someone else to act on your behalf.

We are reviewing the legislation that deals with future planning. The ***Dependent Adults Act*** and the ***Personal Directives Act*** contain the legalities of what happens when you are no longer able to make decisions on your own.

Alberta Seniors and Community Supports and Alberta Justice invite you to take part in the review of this legislation. We would like to hear your ideas and suggestions about how the legislation may be improved to better serve the needs of Albertans.

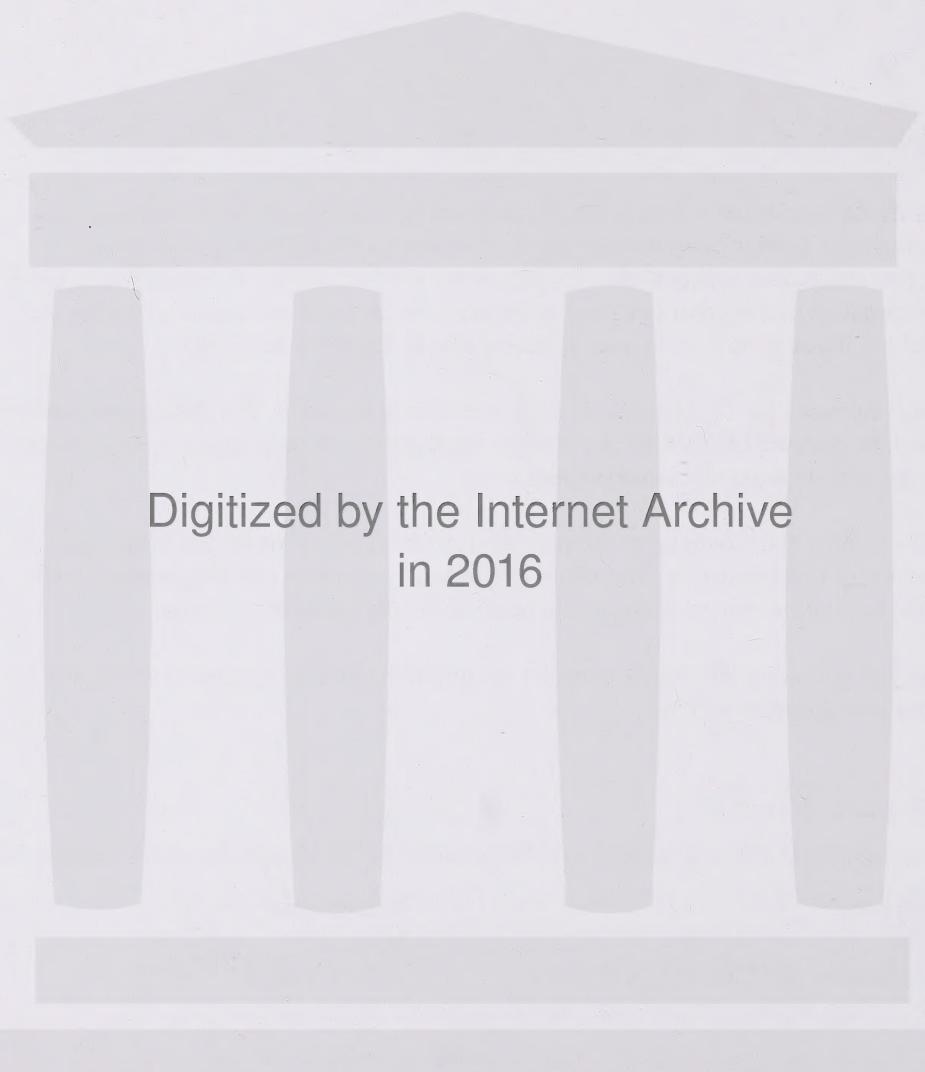
Thank you for taking the time to consider the questions in this Discussion Guide and for sharing your thoughts with us.



Yvonne Fritz
Minister
Alberta Seniors and Community Supports



Ron Stevens
Minister
Alberta Justice



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Your Input is Invited

Your input is invited in a government review of the *Dependent Adults Act* and the *Personal Directives Act*. The aim of the review is to ensure any recommended changes to this legislation will meet the needs of adult Albertans now and into the future.

This Discussion Guide provides important information. It is divided into three parts:

- Part 1 – Introduction
- Part 2 – *Dependent Adults Act* and survey questions (blue pages)
- Part 3 – *Personal Directives Act* and survey questions (green pages)

Part 1 gives general information about this review.

Parts 2 and 3 give more information about the legislation under review. Each part also contains survey questions. Feel free to respond to the questions in one or both parts.

You can submit your responses to the survey questions:

- **Online** – Go to www.seniors.gov.ab.ca or www.justice.gov.ab.ca
- **By fax** – send your answers to the survey questions by fax to:
(780) 422-6051
- **By mail** – send this entire Discussion Guide with your responses to the survey questions to:

Brenda Lee Doyle, Director
Office of the Public Guardian
10th Floor, Centre West Building
10035 – 108 Street
Edmonton, AB T5J 3E1

DEADLINE FOR INPUT: Input will be received up to **August 5, 2005**.

Your personal information, including your opinions, is protected by the *Freedom of Information and Protection of Privacy Act*. All responses will remain anonymous. If you have any questions about this process, or would like further information about the Discussion Guide, contact Brenda Lee Doyle, Director, Office of the Public Guardian:

- by telephone: (780) 422-1868 (to be connected toll-free in Alberta, dial 310-0000 followed by the area code and phone number), or
- by e-mail: BrendaLeeDoyle.LegReview@gov.ab.ca.

Part 1: Introduction

The aim of the legislative review is to ensure the *Dependent Adults Act* and *Personal Directives Act* meet the personal and financial needs of adult Albertans now and into the future.

Both Acts deal with decision making for adults who are unable, by reason of mental incapacity, to make decisions on their own. The *Powers of Attorney Act*, which also deals with future financial management, is being reviewed in another process.

The *Dependent Adults Act* and *Personal Directives Act* affect thousands of Albertans throughout the province. It is important for Albertans to provide their input about how this legislation may be improved.

You can share your views and comments by answering the survey questions in this Discussion Guide.

Who should participate in this review?

Any adult Albertan with an interest in any aspect of the legislation is invited to participate. This includes adults thinking about how they would manage their personal and financial affairs if they were ever unable to make decisions on their own.

Anyone who has direct experience with the *Dependent Adults Act* or *Personal Directives Act* is also invited to participate. This includes trustees, guardians, family members, legal advisors, health care providers and those who have personal directives.

There will be a separate process to gain the input of dependent adults. This may include personal meetings and focus groups to hear their input directly.

The *Dependent Adults Act*

The *Dependent Adults Act* directly affects about 10,000 Albertans who are unable to make reasonable personal or financial decisions on their own due to mental incapacity. This legislation is about how and when decisions may be made for dependent adults.

The *Dependent Adults Act* was established 27 years ago. This legislative review is to determine what changes, if any, may better meet the current and future needs of dependent adults.

You are invited to answer questions about the *Dependent Adults Act* in Part 2. This section also contains more details about the Act.

The *Personal Directives Act*

The *Personal Directives Act* affects all adult Albertans who choose to prepare personal directives to ensure their wishes are carried out if they become unable to make personal decisions on their own due to injury, disease or illness. This Act was enacted in 1997.

Under this legislation, Albertans may create a legal document giving written instructions for their future and naming someone they trust to make decisions for them in certain areas. Personal directives are sometimes compared to “living wills.” Living wills generally cover only end-of-life instructions, but personal directives normally cover many personal matters, not just health care or end of life.

You are invited to answer survey questions about the *Personal Directives Act* in Part 3. This section also contains more information about the *Personal Directives Act*.

Community Consultations

You will also be able to provide verbal and written input by attending a public meeting. Public meetings will be held in fall/winter 2005. Please visit the government websites at www.seniors.gov.ab.ca or www.justice.gov.ab.ca for updates.

The following government offices are coordinating the legislative review process:

- Office of the Public Guardian is responsible for the *Dependent Adults Act* and the *Personal Directives Act*. This office is a part of the Ministry of Seniors and Community Supports.
- Office of the Public Trustee is involved with the *Dependent Adults Act* as it relates to trusteeship. This office is a part of the Ministry of Justice and Attorney General.

During the legislative review, members of these offices will be working closely with guardians, trustees, health care professionals, representatives of the Alberta Long Term Care Association and legal advisors to provide recommendations to government about how the legislation may be improved.

Part 2: *Dependent Adults Act*

In this part, the terms in ***bold italics*** are defined on page 6.

Background

The *Dependent Adults Act* provides a formal process to appoint someone to make important decisions for an adult Albertan who is:

- 18 years of age or older,
- repeatedly or continuously unable to care for themselves and unable to make reasonable personal decisions, or
- unable to make reasonable judgments regarding their financial matters and needs a ***trustee*** to assist him or her.

Dependent adults are often incapable of making decisions due to a mental disability, such as a developmental disability, chronic mental illness, acquired brain injury or dementia.

Since 1978, the *Dependent Adults Act* has served as a model for other jurisdictions. Even so, some of these jurisdictions have made changes to the model. This legislative review will attempt to determine how the *Dependent Adults Act* could be changed to better meet the needs of Albertans now and into the future.

Guardianship and Trusteeship

Two key aspects of the *Dependent Adults Act* are ***guardianship*** and ***trusteeship***.

A ***guardianship order*** is granted by the court to give a person authority to make personal decisions for a dependent adult in areas such as health care and living arrangements. The person given this authority is called a ***guardian***.

A ***trusteeship order*** is granted by the court to give a person authority to make decisions for a dependent adult for financial matters. The person given this authority is called a ***trustee***.

In Alberta, immediate family does *not* have an automatic right to make personal or financial decisions for a dependent adult. Instead, family members must be granted authority to make such decisions by:

- a ***trusteeship*** or ***guardianship order***,
- a ***personal directive*** (for personal matters), or
- an ***enduring power of attorney*** (for financial and property matters).

The remainder of Part 2, including the survey questions, assumes that a person does not have a personal directive or an ***enduring power of attorney***.

More on Guardianship

If a family member, friend or other interested individual wishes to become a ***guardian*** of a dependent adult, he or she must apply to the court for a ***guardianship order***.

Under the *Dependent Adults Act*, the court must decide whether the appointment of a **guardian** would be of substantial benefit to the dependent adult.

Guardianship orders are made after the needs and capabilities of the dependent adult are assessed. This assessment is based on the report by a physician or psychologist.

A **guardian** can make decisions only in the areas granted by the court and is required to protect the best interests of the dependent adult. The areas may apply to decisions about living arrangements, personal contacts, social activities, employment, education and training, licenses and permits, legal matters (excluding financial matters), health care, daily living routines and other matters.

The court must also assess whether the person applying to be a **guardian** is suitable. A **Public Guardian** may be appointed if there is no other suitable person to act as a **guardian**.

Anyone, including the dependent adult, may ask the court to review guardianship at any time. **Guardianship orders** must specify a review date no later than six years from the date of the order.

More information about guardianship is available online at www.seniors.gov.ab.ca.

More on Trusteeship

The court may appoint a **trustee** for an adult Albertan who is mentally incapable of making reasonable decisions about his or her finances.

The court will only appoint a **trustee** if the court determines it is in the dependent adult's best interest to do so. The court may appoint:

- an adult who lives in Alberta and is willing, able and suitable to act as **trustee**,
- a **trust corporation**, or
- the **Public Trustee**, in cases where there is no individual or trust corporation willing, able and suitable to act as the **trustee**.

Trustees must apply to the court periodically to have their trust accounts for dependent adults examined and approved by the court. The court must review the trusteeship order at least once every six years to make sure that it is still in a dependent adult's best interest to have a **trustee**. The dependent adult, or another person who is interested in the dependent adult's well-being, may ask the court to review a trusteeship order at any time.

The **Public Trustee** is also the **trustee** for individuals for whom *Certificates of Incapacity* have been issued.

More information on trusteeship is available online at www.justice.gov.ab.ca/public_trustee/

Definitions

The following is a guide to the definition of words or phrases as they are used in this document. They are not meant to be legal definitions.

A **Bond** is a legal agreement in which a third party, such as an insurance company, guarantees a trustee's obligation.

A **Certificate of Incapacity** is a document issued by two physicians for a resident of a designated facility who is unable to make reasonable judgments about his or her estate. When this certificate is issued, the **Public Trustee** is appointed as the person's *trustee*.

Enduring Power of Attorney is a type of *power of attorney*, which remains in effect even if the person who gave the authority subsequently becomes mentally incapable of managing his or her own financial affairs.

A **Guardian** is a person who is legally responsible to make, or assist in making, personal decisions for a dependent adult. The dependent adult's *guardian* is so named in a *guardianship order*.

Guardianship orders are court orders appointing a *guardian*, who is authorized to make decisions on behalf of a dependent adult for specific matters.

Power of Attorney is a document in which one person gives another person authority to act on their behalf regarding financial matters.

A **Public Guardian** is a government official who can act as *guardian* under the *Dependent Adults Act*. There are five **Public Guardians** in Alberta.

A **Public Trustee** is an official appointed under the *Public Trustee Act* who may act as *trustee* under the *Dependent Adults Act*.

Substitute decision-maker refers to someone who has been formally appointed (eg. by the court) to make decisions on behalf of an adult who is unable to make reasonable decisions due to mental incapacity. *Guardians* and *trustees* are *substitute decision-makers*.

Trust corporations are registered corporations able to act as court-appointed *trustees* under the *Dependent Adults Act*.

Trustee refers to the person, who under a court order or **Certificate of Incapacity**, has the legal responsibility to manage a dependent adult's financial matters.

Survey Questions – *Dependent Adults Act*

Please indicate your response to each question by checking the appropriate box or boxes.

Demographic Information

Please give some information about yourself.

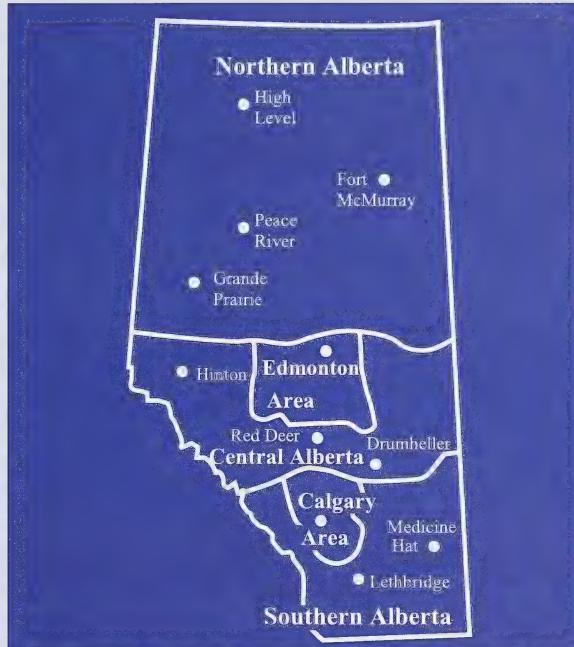
1. Which of these statements apply to you? (Please check all that apply to you).

	Yes
I am an Alberta resident interested in the <i>Dependent Adults Act</i>	
I am a private guardian or trustee	
I am a relative of a dependent adult	
I am a professional working to provide services to dependent adults	

2. What is your age?

	Yes
18 to 35 years	
36 to 49 years	
50 to 64 years	
65 years or older	

3. Where do you live? (Please check only one).



	Yes
I live in Northern Alberta (not in the Edmonton Area)	
I live in the Edmonton Area	
I live in Central Alberta (including Red Deer)	
I live in the Calgary Area	
I live in Southern Alberta (not in the Calgary Area)	

Your input on the *Dependent Adults Act*

About Question 1: Currently, the court may appoint a *guardian* or *trustee* for an adult when the adult has a history of being unable to make reasonable decisions on personal or financial matters, and it is in their best interest to have someone appointed. If you were ever to have trouble making decisions on your own, when would you want someone to step in as your decision-maker? Early on, at the first sign of difficulties or only after you are no longer able to express your wishes?

1. At what point should someone be appointed to make personal or financial decisions for you? (Please respond to all options).	Yes	No	Unsure/ No opinion
When, in the opinion of others, I am making decisions that are not in my best interests			
If other people are taking advantage of me			
If, as a result of a medical condition, I am repeatedly unable to make reasonable financial or personal decisions			
When I am in a coma, and I cannot make personal and/or financial decisions for myself			

About Question 2: The *Dependent Adults Act* attempts to balance certain principles. One principle is that the personal and financial interests of adults that are mentally incapable should be protected. Another, is that every adult's right to personal freedom and autonomy should be respected.

2a) If you were to become less capable of making decisions, how much value would you place on your personal freedom and autonomy to continue to make decisions on your own without a substitute decision-maker? (Indicate your answer on a scale from 1 to 5, with 1 being "not important" and 5 being "very important." Circle one).

(Not important) 1 2 3 4 5 (Very important)

2b) If you were to become less capable of making decisions, how much value would you place on protecting your personal or financial interests? (Indicate your answer on a scale from 1 to 5, with 1 being "not important" and 5 being "very important." Circle one).

(Not important) 1 2 3 4 5 (Very important)

About Questions 3a), 3b) and 4: In Alberta, if a family member lacks mental capacity, immediate family members have no legal authority to make decisions for the incapacitated family member unless the court appoints them as a substitute decision-maker. (This assumes that the family member has not been appointed by a personal directive or an enduring power of attorney previously). Some jurisdictions give limited, temporary authority to family members without having to obtain a court order. Are you in favour of this option being adopted in Alberta?

3a) If no one was formally appointed as your substitute decision-maker and you were no longer capable of making decisions yourself:

Yes	No

Would you want someone else to make decisions for you informally (i.e. without a court order)?

3b) If you answered “No” to question 3a), please go directly to question 5.

If you answered “Yes” to question 3a) ...

**Who would you want to make decisions for you informally?
(Please rank the following options from 1 to 8, with 1 being the option you would prefer the most and 8 being the option you would prefer the least).**

Rank 1 to 8

1 = most preferred
8 = least preferred

My spouse/partner	
My children	
My parent	
My brother or sister	
Another relative	
My friend	
My doctor	
A government official such as a Public Guardian or the Public Trustee	

4. If you were no longer capable of making decisions on your own, what kinds of decisions would you feel comfortable having someone else make informally for you? (Please respond to all options).	Yes	No	Unsure/No opinion
Paying my daily living expenses			
Deciding what kind of social or recreational activities I would participate in			
Deciding where I would live			
Deciding how to invest my money			
Deciding to sell my property			
Deciding on minor health care matters, such as going to the doctor, taking medication, having dental treatment			
Deciding on all health care matters including consenting to surgery, putting me on/taking me off life support			

About Question 5: In Alberta, most substitute decision-makers are appointed by a personal directive, an *enduring power of attorney* or by the court. Some jurisdictions have more options about how someone may become a substitute decision-maker. What kinds of options would you favour?

5. How should someone become a decision-maker for you if you were no longer capable of making decisions on your own? (Please respond to all options).	Yes	No	Unsure/No opinion
Certain people should be automatically designated in the <i>Dependent Adults Act</i> as being able to make a decision for me in certain circumstances (for example, immediate family could make a health care decision for me)			
A panel of appointed community members, including experts, would appoint a decision-maker for me			
A judge would appoint a decision-maker for me			
A government official, such as a Public Guardian or the Public Trustee, would appoint a decision-maker for me			
A physician or psychologist would issue a certificate appointing a government official to be my decision-maker			

About Questions 6 and 7: Under the *Dependent Adults Act*, a substitute decision-maker, (i.e. a **guardian** or **trustee**), must make decisions for the dependent adult based on what the decision-maker believes is in the best interest of the dependent adult.

6. **If you were no longer capable of making decisions on your own, how should your substitute decision-maker make decisions about your *personal matters* for you, (for example, decisions about health care or where you would live)? (Please rank these options from 1 to 4, with 1 being the option you would prefer the most and 4 being the option you would prefer the least).**

Rank 1, 2, 3, 4

1 = most preferred
4 = least preferred

Based on a discussion with me at the time a decision needs to be made

Based on what my decision-maker knows of my past preferences

Based on what my decision-maker thinks is in my best interest

Based on previous conversations with relatives and friends

7. **If you were no longer capable of making your own decisions, how should your substitute decision-maker make decisions about *financial matters* for you (for example, managing your investments or selling your house)? (Please rank these options from 1 to 4, with 1 being the option you would prefer the most and 4 being the option you would prefer the least).**

Rank 1, 2, 3, 4

1 = most preferred
4 = least preferred

Based on a discussion with me at the time a decision needs to be made

Based on what my decision-maker knows of my past preferences

Based on what my decision-maker thinks is in my best interest

Based on previous conversations with relatives and friends

About Question 8: The *Dependent Adults Act* gives mechanisms or ways to protect the interests of the dependent adult. What safeguards do you think should be included in this legislation if it were to be revised?

8. If you were no longer capable of making decisions on your own, what steps should be taken to ensure that your substitute decision-maker acts in your best interests? (Please respond to all options).

	Yes	No	Unsure/ No opinion
My decision-maker should have to account to me with a record of decisions made			
My decision-maker should have to account to a person the court has appointed to monitor my decision-maker			
My decision-maker should have to account to a government official such as the Public Guardian or the Public Trustee			
My decision-maker should have to account to the court			
For financial decisions, my decision-maker should have to post a <i>bond</i> before being appointed			

9. Some of the main issues about the *Dependent Adults Act* have been raised in the questions provided. Do you have any other comments or issues you wish to raise about the *Dependent Adults Act*? Please provide them here. Use extra sheets of paper if needed.

If you are finished, you may submit your responses to this Discussion Guide by:

- Faxing them to: (780) 422-6051, or
- Mailing them to:
Brenda Lee Doyle, Director
Office of the Public Guardian
10th Floor, Centre West Building
10035 – 108 Street
Edmonton, AB T5J 3E1

Please note all input must be received by August 5, 2005.

Thank you!

Part 3: Personal Directives Act

In this part, the terms in ***bold italics*** are defined on page 16.

Background

The *Personal Directives Act* was developed to allow adult Albertans to plan ahead for a time when they might need someone else to make personal decisions for them. By doing so, they would avoid the need for a court order. Through a personal directive, their wishes would be respected in law. A personal directive may either name an ***agent*** to make a decision or give instructions as to how a decision should be made.

Any adult Albertan who understands the nature and effect of a personal directive can make a personal directive if they choose. Making a personal directive is strictly voluntary. It must be in writing, dated and signed by the ***maker*** and a witness.

A personal directive only applies to non-financial, personal decisions. For example, these decisions may be related to:

- health care
- accommodation
- who the person may live and associate with
- participation in social, education and employment activities
- legal matters
- any other matters set out in the regulations of the *Personal Directives Act*

There is no standard form for a personal directive, and a lawyer is not required. A personal directive remains in effect until it is revoked by its ***maker*** or the court, or its ***maker*** dies. The instructions in a personal directive continue to be legally valid even if its ***maker*** chooses to change the person appointed, the ***agent***, to make decisions for him or her.

Agents

A personal directive gives authority to an ***agent*** to make decisions about ***personal matters*** if the ***maker*** becomes unable to make these decisions on his or her own. The *Personal Directives Act* restricts ***agents*** from making decisions that are illegal and decisions about things not medically necessary, such as sterilization or organ donation. The responsibility of an ***agent*** stops during any period in which the ***maker*** regains capacity to make his or her own decisions.

An ***agent*** must:

- be at least 18 years old, have the mental capacity to make decisions for you, and be willing to act as ***agent***,

- consult with you before making decisions, and
- keep a record of all decisions made on your behalf for two years after his or her authority ends.

When a personal directive comes into effect

A personal directive comes into effect when its **maker** is found to lack the **capacity** to make decisions about the matters in the directive. Under the current *Personal Directives Act*, the determination of capacity can be done by:

- either a person named in the directive to assess capacity, after consulting with a physician or psychologist, or if no one is designated or if the designated person is unwilling or unable to carry out this task, then
- two service providers, at least one of whom is a physician or psychologist, who must make a written declaration that the **maker** lacks capacity. The written record must be kept by the physician or psychologist.

If a **service provider**, such as a doctor, intends to provide personal services to you and your personal directive is in effect, the **service provider** must follow any clear and relevant instructions of your **agent**. If you have not designated an **agent**, or your **agent** is unable or unwilling to act or cannot be contacted, the **service provider** must follow any clear and relevant instructions in your directive. When a personal directive is activated, the **agent** can refuse to make a decision at any time. If this happens, an alternate **agent** who may be named could act as the **agent**, or a **service provider** would follow the directions in your personal directive.

In a personal directive, the **maker** can instruct that the actions of an **agent** be reviewed. As well, anyone can apply to the court to review the **agent's** actions or on any other matter related to the personal directive.

Some issues

The *Personal Directives Act* was originally intended to give Albertans flexibility in writing personal directives and in controlling the document. For example, there is no standard form. There is also no need to give the document to anyone before it is activated, nor is there a need to obtain the consent of the proposed **agent**.

While flexibility is desirable, a recent survey about personal directives identified that at times it is difficult to recognize a personal directive since it can come in many different forms. This has also caused some issues about when to activate certain directions in a personal directive.

While the personal directive can include safeguards to ensure its directions are followed, other jurisdictions require, by regulation, that the actions of the *agent* are monitored. Currently, the *Personal Directives Act* does not require that a personal directive be registered at a central registry.

Definitions

The following is a guide to the definitions of words or phrases as they are used in this document.

An **Agent** is a person designated in a personal directive to make personal decisions on behalf of the *maker*.

A **Declaration of Incapacity** is a document affirming that a person lacks *capacity*.

Capacity is the ability to understand information that is relevant to making a personal directive, and the ability to appreciate the consequences of the decision.

A **Maker** is a person who writes a personal directive.

A **Monitor** is a person who has been appointed to watch over or check on the actions of a decision-maker (i.e. *agent*).

A **Personal matter** is any non-financial matter including health care, where you live, who you live and associate with, how you participate in social, educational and employment activities, non-financial legal matters (such as consent for release of medical records) or any other personal matter.

A **Service provider** is a person in a business or profession that provides, or who is employed to provide, a personal service to an individual and when providing the service, requires a personal decision from the individual.

More information about personal directives is available online at: www.seniors.gov.ab.ca

Survey questions – *Personal Directives Act*

Demographic Information

Please give some information about yourself.

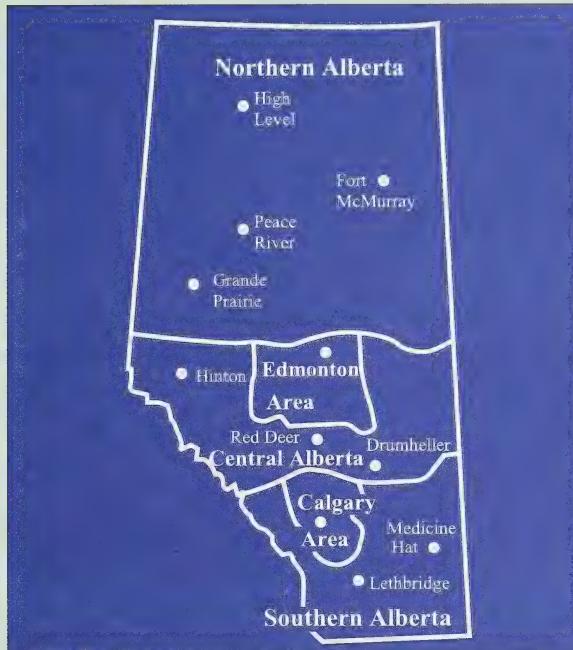
1. Which of these statements apply to you? (Please check all that apply to you).

	Yes
I am an Alberta resident interested in personal directives	
I currently have a personal directive	
I have been named as an agent in someone else's personal directive	
I am a professional working with Albertans who have personal directives	

2. What is your age?

	Yes
18 to 35 years	
36 to 49 years	
50 to 64 years	
65 years or older	

3. Where do you live? (Please check only one option).



	Yes
I live in Northern Alberta (not in the Edmonton Area)	
I live in the Edmonton Area	
I live in Central Alberta (including Red Deer)	
I live in the Calgary Area	
I live in Southern Alberta (not in the Calgary Area)	

Your input on the *Personal Directives Act*

About Question 1: It has been suggested that: (a) personal directives should be easy to prepare, even by those who have limited capacity, (b) immediate family should have the legal authority to make some decisions on behalf of a person who has not prepared a personal directive, and (c) the province should recognize similar personal planning tools made outside the province.

1. How would you like personal directives to work? (Please respond to all options).	Yes	No	Unsure/No Opinion
There should be a standard form available for personal directives			
If I were an adult who had trouble making personal decisions and my capacity was questioned, I would like the <i>Personal Directives Act</i> to allow me to make a personal directive that has safeguards built in for my protection			
A personal directive that was made by me or by a family member outside Alberta (that is, in another province or country) should be recognized in Alberta			
If I do not have a personal directive, my immediate family should be able to make the kinds of personal decisions for me covered by a personal directive			

About Question 2: It has been suggested that options be built into the Act so others would know if a personal directive exists.

2. When you make a personal directive, how should others, such as family members or service providers, know you have one? (Please respond to all options).	Yes	No	Unsure/No Opinion
The personal directive must be filed in a central registry			
I could decide whether I wanted to file the personal directive in a central registry			
I should be required to give a copy of the personal directive to the person named as my <i>agent</i>			
I should be required to give a copy of the personal directive to a <i>service provider</i> or doctor			

About Question 3: In Alberta, a personal directive is activated when a determination of incapacity has been done. The determination of capacity can be done by:

- either a person named in the directive to assess capacity, after consulting with a physician or psychologist, or if no one is designated or if the designated person is unwilling or unable to carry out this task, then
- two service providers, at least one of whom is a physician or psychologist, who must make a written declaration that the maker lacks capacity. The written record must be kept by the physician or psychologist.

Should the current process in the *Act* to activate a personal directive be changed?

3. Who do you believe should decide when and if you are no longer capable to make personal decisions? (Please respond to all options).

	Yes	No	Unsure/ No Opinion
Somebody appointed by me such as my <i>agent</i>			
My physician			
Any physician or psychologist			
My immediate family or friend			

About Questions 4 and 5: Choosing the right person to act as an *agent* is critical because of the power the *agent* would have after a personal directive is activated.

4. How should agents work? (Please respond to all options).

	Yes	No	Unsure/ No Opinion
My personal directive must include the signed consent of the <i>agent</i> I have named to agree to do what is requested in the personal directive if it is ever activated			
I would like my <i>agent</i> to make decisions based on wishes I have recently told them about, even if they differ from my earlier written instructions			
If I do not name an <i>agent</i> in my personal directive, or my named <i>agent</i> is unable or unwilling to act, my immediate family should be able to make a decision for me			
There should be a process to review the decisions made by my <i>agent</i> on my behalf			

5. If you agree there should be a process to review decisions made by your agent on your behalf, who should do that review? (If you <i>do not</i> agree that there should be a review process, please <i>do not</i> answer this question).	Yes	No	Unsure/ No Opinion
My <i>agent's</i> decisions should be reviewed by any or all other agents I have named who are able and willing			
My <i>agent's</i> decisions should be reviewed by a <i>monitor</i> I named in my personal directive			
My <i>agent's</i> decisions should be reviewed by an administrative panel of community members			
My <i>agent's</i> decisions should be reviewed by a judge			
My <i>agent's</i> decisions should be reviewed by my immediate family			

6. Some of the main issues about the *Personal Directives Act* have been addressed in the questions raised. Do you have any other issues you wish to raise or comments about the *Personal Directives Act*? Please provide them here. Use extra sheets of paper if needed.

If you are finished, you may submit your responses to this Discussion Guide by:

- Faxing them to: (780) 422-6051, or
- Mailing them to:
Brenda Lee Doyle, Director
Office of the Public Guardian
10th Floor, Centre West Building
10035 – 108 Street
Edmonton, AB T5J 3E1

Please note all input must be received by August 5, 2005.

Thank you!

Next Steps of the Legislative Review

What happens after the input is received on the *Dependent Adults Act* and the *Personal Directives Act*? The next steps are as follows:

When	Steps
Summer/Fall 2005	<ul style="list-style-type: none">• Responses to the Survey Questions are reviewed.• Community consultations are held.• A report is prepared summarizing the public input from community consultations; the key findings of the report are posted online at www.seniors.gov.ab.ca and www.justice.gov.ab.ca.• Options for legislative changes are identified and evaluated based on all input received.• A stakeholder consultation process will take place. The process will include:<ul style="list-style-type: none">▪ Discussion of feedback from community consultations and▪ Identifying any issues needing further review and resolution.The process will involve private guardians, trustees, lawyers, judges, clerks of the court, dependent adults, advocacy groups, government ministries, health regions, long term care facilities, etc.If you are interested in participating in this process, please contact Brenda Lee Doyle, Office of the Public Guardian, at (780) 422-1868 or BrendaLeeDoyle.LegReview@gov.ab.ca.
Winter 2005 – 2006	<ul style="list-style-type: none">• Input from the stakeholder consultation process is reviewed.• Final issues are identified.• Proposed revisions to legislation are developed.• The recommendations for change to the legislation are submitted to the Minister of Seniors and Community Supports for consideration by the Government of Alberta.

